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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 James Winston, et al.,) No. CV 04-342-PHX-SMM
10 Plaintiffs,)
11 vs.) **ORDER RE: FINAL PRETRIAL
12 American Family Mutual Insurance Company,**) CONFERENCE
13 Defendant.)
14)

15 A Final Pretrial Conference has been set in this case for November 28, 2006 at 4:00
16 p.m. Accordingly,
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18 **IT IS ORDERED** that, if this case shall be tried to a jury, the attorneys who will be
19 responsible for the trial of the lawsuit shall prepare and sign a Proposed Pretrial Order and
20 submit it to the Court no later than **5:00 p.m. on October 27, 2006**. In addition to filing a
21 written copy of the Proposed Pretrial Order with the Court, the parties shall also submit a
22 copy of the Final Pretrial Order on an IBM-compatible computer disk in WordPerfect® 7.0
23 format. (360K, 720K, 1.24K, and 1.44K diskettes are all acceptable).

24 **IT IS FURTHER ORDERED** that the content of the Proposed Pretrial Order shall
25 include, but not be limited to, that prescribed in the Form of Pretrial Order attached hereto.
26 Statements made shall not be in the form of a question, but should be a concise narrative
27 statement of each party's contention as to each uncontested and contested issue.
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1 **IT IS FURTHER ORDERED** pursuant to Federal Rule of Civil Procedure 37(c) that
2 the Court will not allow the parties to offer any exhibits, witnesses, or other information that
3 were not previously disclosed in accordance with the provisions of this Order and/or the
4 Federal Rules of Civil Procedure and/or not listed in the Proposed Pretrial Order, except for
5 good cause.

6 **IT IS FURTHER ORDERED** directing the parties to exchange drafts of the
7 Proposed Pretrial Order **no later than fourteen (14) days before the submission deadline**.

8 **IT IS FURTHER ORDERED** that the parties shall file and serve all motions in
9 limine no later than **October 27, 2006**. Each motion in limine shall include the legal basis
10 supporting it. Responses to motions in limine are due **November 3, 2006**. No replies will
11 be permitted. The attorneys for all parties shall come to the Final Pretrial Conference
12 prepared to address the merits of all such motions.

13 **IT IS FURTHER ORDERED** directing the parties to complete the following tasks
14 by the time of the filing of the Proposed Pretrial Order if they intend to try the case before
15 a jury:

16 (1) The parties shall jointly file a description of the case to be read to the jury.
17 (2) The parties shall jointly file a proposed set of voir dire questions. The voir dire
18 questions shall be drafted in a neutral manner. To the extent possible, the parties shall
19 stipulate to the proposed voir dire questions. If the parties have any disagreement
20 about a particular question, the party or parties objecting shall state the reason for
21 their objection below the question.

22 (3) The parties shall file a proposed set of stipulated jury instructions. The
23 instructions shall be accompanied by citations to legal authority. If a party believes
24 that a proposed instruction is a correct statement of the law, but the facts will not
25 warrant the giving of the instructions, the party shall so state. The party who believes
26 that the facts will not warrant the particular instruction shall provide an alternative
27 instruction with appropriate citations to legal authority.

1 (4) Each party shall submit a form of verdict to be given to the jury at the end of
2 the trial.

3 **IT IS FURTHER ORDERED** directing the parties to submit their proposed voir dire
4 questions, joint statement of the case, and stipulated jury instructions on IBM-PC compatible
5 computer disk in WordPerfect® 7.0 format in addition to the written materials filed with the
6 Clerk of the Court. (360K, 720K, 1.24K, and 1.44K diskettes are all acceptable).

7 **IT IS FURTHER ORDERED** that if the case will be tried to the Court, rather than
8 to a jury, instead of filing a Proposed Pretrial Order, each party shall submit proposed
9 findings of fact and conclusions of law by the same date the Proposed Pretrial Order is due.
10 These proposed findings of fact and conclusions of law shall be submitted in both written
11 copy and on an IBM-compatible computer disk in WordPerfect® 7.0 format. (360K, 720K,
12 1.24K, and 1.44K diskettes are all acceptable).

13 **IT IS FURTHER ORDERED** that the parties shall keep the Court apprised of the
14 possibility of settlement and should settlement be reached, the parties shall file a Notice of
15 Settlement with the Clerk of the Court.

16 **IT IS FURTHER ORDERED** that this Court views compliance with the provisions
17 of this Order as critical to its case management responsibilities and the responsibilities of the
18 parties under Rule 1 of the Federal Rules of Civil Procedure.

19 DATED this 29th day of September, 2006.

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22 Stephen M. McNamee
23 United States District Judge

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